IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

Writ Petition No. 1831 of 1994

Flt.Lt.R.M.Choudhary
Indian Inhabitant, Aircraft
Errection Unit, 30 ED Air Force
Santacruz Airport, Bombay and
permanent address at village Rudali
P.S.Badhawaam, Dist.Bagasanam, Bihar ..Petitioner

vs.

1. Union of India, New Delhi

2. Chief of Air Staff
Air Head Quarter (V.B.)
New Delhi 110 001

3. Commanding Officer
Aircraft Errection Unit
30, E D Air Force
Santacruz Airport,Bombay ..Respaondent

None for petitioner.
Smt.Sonali Humane i/b Shri S.S.Pakale for respondents.

CORAM: SWATANTER KUMAR C.J.
& S.C.DHARMADHIKARI J.
7th JUNE, 2007

ORAL JUDGMENT: (Per Swatanter Kumar C.J.)

1. This petition has been on regular board of this Court and when the matter was called out nobody appeared on behalf of the petitioner. It was dismissed in default on 6th November, 2006. Subsequently, it was restored to file vide order passed in Notice of Motion No.645 of 2006. It was, upon restoration, called out for hearing today but the Advocate and the petitioner are absent. However, in the interest of justice, we passed over the case and when

the case is called out again till nobody appeared on behalf of the petitioner. Normally we would have dismissed the petition for default of appearance but the learned Counsel for the respondent is presdent and we have perused the record. Thus, we would proceed to deal with the matter in accordance with law.

2. In this petition under Article 226 of the Constitution of India, the petitioner prays for issuance of appropriate writ, order or direction quashing and setting aside the order dated 7th July, 1994 by which the petitioner was compulsorily retired from service by respondent no.1 with effect from 19th July, 1994. The authorities exercised the powers vested with them under Rule 12 of the Air Force Rules. The show cause notice dated 24th May, 1993 was served upon the petitioner. The allegation in the show cause notice was that the petitioner had solemanised marriage with one Ms.Manju on 28th May, 1991 during the subsistence of his earlier marriage with Ms.Pushpa Choudhary and thus had violated the provisions of Hindu Marriage Act, 1955 and also para 578 of the Regulations for Air Force (Revised edition 1964). To this show cause notice the petitioner filed a reply on 14th July, 1993 (Exh.E to the petition) wherein he stated that the allegations were malafide and that Pushpa Choudhari had not intentionally approached any court of competent jurisdiction for justice by substantiating and proving her

allegations. It is further stated that Ms.Pushpa Choudhary has no cause of action. Despite vague denial he had specifically stated that he had never got married to both the ladies as above recorded. He did question the correctness of the enquiry conducted against him by C.O.I. Having perused the reply to the show cause notice which is completely unsatisfactory, the competent authority vide its order dated 7th July, 1994 compulsorily retired the petitioner from service. The order passed by the authorities neither suffers from any patent error of jurisdiction nor violates any of the Rules applicable to the members of the Air Force. The grounds taken in the writ petition primarily refer to the conduct of the enquiry and challenge the issue in the show cause notice. Having perused the record we are of the considered view that the impugned order does not call for any judicial interference by this Court in exercise of its powers under Article 226 of the Constitution of India. The factum of two marriages has been specifically denied by the petitioner. For the reasons aforestated we hardly find any merit in the present writ petition which in any case is liable to be dismissed for default of appearance. Consequently the writ petition is dismissed with no order as to costs.

(CHIEF JUSTICE)

(S.C.DHARMADHIKARI J.)